Chapter 38 - FOOD SANITATION

Sec. 38-A FOOD AND FOOD ESTABLISHMENTS

State Law reference — Food and drugs, 410 ILCS 605/1 et seq.; health powers of County, 55 ILCS 5/5-1052.

Sec. 38-A-1 Scope

This article regulates food establishments, temporary food establishments, the operation of such establishments and equipment, and requiring permitting of food establishments and temporary food establishments within the limits of the County.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-2 Adoption by Reference

In addition to those provisions set forth herein, this article hereby adopts by reference the provisions set forth in the State of Illinois, Department of Public Health, Division of Food, Drugs and Dairies, Food Service Sanitation Code (77 IL Adm. Code 750) and any subsequent amendments or revisions thereto.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-3 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adulterated: The condition of food if it:

1. Bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
2. Bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or in excess of such tolerance if one has been established;
3. Consists in whole or in part of filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption;
4. Has been processed, prepared, packed or held under unsanitary conditions whereby it may have become contaminated or whereby it may have been rendered injurious to health;
5. Is in whole or in part the product of a diseased animal or animal which has died other than by approved slaughter method;
6. If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

Authorized representative: A designated employee of the DeKalb County Health Department.

Bed and breakfast establishment: An operator occupied residence providing accommodations for a charge to the public with no more than five guestrooms for rent, in operation for more than ten nights in a 12-month period. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Board of Health: The governing body for the DeKalb County Health Department.

Building: Any structure which is designed, used or intended for the support, enclosure, shelter, or protection of persons, animals, or other property and which is permanently affixed to the land.

Commissary: A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored, *that is licensed by the appropriate governing party.*

Cottage Food: Means an operation conducted by a person who produces or packages food or drink, other than foods and drinks listed as prohibited in the law (410 ILCS 625/4, as amended), in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped kitchen on a farm for direct sale by the owner, a family member, or employee. In other words, a Cottage Food Operation is a homebased food business.

County: The County of DeKalb, State of Illinois.

County Board: The County Board of DeKalb County, Illinois.

Equipment: Stoves, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items used in the operation of a food service establishment. All equipment shall be required to bear the seal of approval of the National Sanitation Foundation (NSF) or equivalent sanitation standard, and be approved by the County Health Department.

Embargo: To detain the sales or place a hold on the service of any food.

Environmental health practitioner: An employee of the Health Department engaged in the carrying out of any activity pursuant to this article, including but not limited to inspections and investigations.

Establishment categories:

1. *Category I facility* means a food establishment that presents a high relative risk of causing food-borne illness, based on the large number of food handling operations typically implicated in food-borne outbreaks and/or the type of population served by the facility. Category I facilities include those where the following operations occur:
    a. Potentially hazardous foods are cooled, as part of the food handling operation at the facility;
    b. Potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;
    c. Potentially hazardous cooked and cooled foods must be reheated;
    d. Potentially hazardous foods are prepared for off-premises serving for which time-temperature requirements during transportation, holding and service are relevant;
    e. Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods occurs as part of the food handling operations at the facility;
    f. Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or
    g. Immunocompromised individuals such as the elderly, young children under age four and pregnant women are served, where these individuals compose the majority of the consuming population.
2. *Category II facility* means a food establishment that presents a medium relative risk of causing food-borne illness, based upon few food handling operations typically implicated in food-borne illness outbreaks. Category II facilities include those where the following operations occur:
    a. Hot or cold foods are held at required temperatures for no more than 12 hours and are restricted to same-day services;
    b. Foods are prepared from raw ingredients using only minimal assembly; and
    c. Foods that require complex preparation (whether canned, frozen or fresh prepared) are obtained from approved food processing plants, high risk food service establishments or retail food stores.
3. *Category III facility* means a food establishment that presents a low relative risk of causing food-borne illness, based upon few or no food handling operations typically implicated in food-borne illness outbreaks. Category III facilities include those where the following operations occur:
    a. Only pre-packaged foods are available or served in the facility, and any potentially hazardous foods available are commercially pre-packaged in an approved processing plant;
    b. Only limited preparation of non-potentially hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the facility; or
    c. Only beverages (alcoholic and non-alcoholic) are served at the facility.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, trapping or by any other recognized and legal method of pest elimination approved by the health officer or authorized representative.

Farmer's Market: a recurring gathering of multiple farmers and producers who sell their goods directly to the public at a specific location and time.

FDA: U.S. Food and Drug Administration

Food: Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

Food preparation: The handling, processing and/or serving of potentially hazardous foods.

Food service establishment: Any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare foods intended for individual portion service and retail food stores where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term does not include lodging facilities serving only a continental breakfast (a continental breakfast is one limited to only coffee, tea or juice and commercially prepared sweet baked goods), private homes or a closed family function where food is prepared or served for individual family consumption, establishments which handle only prepackaged spirits, roadside markets that offer only fresh fruits and fresh vegetables or the location of food vending machines.

Food service manager: Any person who supervises/trains a food service worker(s) to follow all food safety regulations. The manager shall have a current State of Illinois Food Service Sanitation Certificate, and have the original certificate onsite for review by the health officer or authorized representative.

Food service worker: Any person, who handles, prepares, serves, sells or gives away food for consumption by persons other than his or her immediate family, or who handles utensils and equipment appurtenant thereto. The term does not include persons in establishments regulated under this Code who handle food or drink exclusively in closed crates, cartons, packages, bottles or similar containers in which no portion of the food or drink is exposed to contamination through such handling.

Garbage: Organic waste resulting from the preparation, processing, handling and storage of food and all decayed or spoiled food from any source whatsoever.

Health Department: The DeKalb County Health Department.

Health officer: The administrator of the Health Department or their authorized Health Department representative.

Highly susceptible population: Persons who are more likely than other people in the general population to experience food-borne disease because they are immunocompromised, preschool age children or older adults; and obtain food at a facility that provides services such as custodial care, health care, or assisted living (such as a child or adult day care center, kidney dialysis center, hospital or nursing home), or nutritional or socialization services (such as senior center).

Home kitchen operation: An operation conducted by a person who produces or packages non-potentially hazardous baked goods in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member. A "home kitchen operation" does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes; the production or packaging of non-potentially hazardous baked goods for these purposes is exempt from the requirements of this article.

Human wastes: Food and byproducts of metabolism which are passed out of the human body.

Infestation: The presence within a building or food establishment of any insects, rodents, vermin or other pests.

Label: A display of written, printed or graphic matter upon the immediate container of an article.

Misbranded: The presence of any written, printed or graphic matter upon or accompanying food or containers of food which is false or misleading.

Mobile food unit: A vehicle mounted mobile food service establishment designed and operated as readily movable and which does not have permanent potable water, wastewater or electric connections, e.g., mobile truck moving from location to location. All mobile food units shall be required to return daily to a commissary for supplies, cleaning and for all servicing operations.

Non-potentially hazardous baked goods: Breads, cookies, cakes, pies, and pastries. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits. Fruit pies not listed may be produced by a home kitchen operation provided their recipe has been tested and documented by a commercial laboratory, not potentially hazardous, containing a pH equilibrium of less than 4.6 or has been specified and adopted as allowed in administrative rules by the department of public health pursuant to 410 ILCS 625/4(e). The following are potentially hazardous and prohibited from production and sale by a home kitchen operation: pumpkin pie, cheesecake, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings.

Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Permit: A written authorization issued by the Health Department or its authorized representative.

Person in charge: The individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge. In addition to the foregoing, the owner shall always be considered a person in charge.

Potentially hazardous food: Food that is potentially hazardous according to the state department of public health's administrative rules issued under the Illinois Food Handling Regulations Enforcement Act. Potentially hazardous food (PHF) in general means a food that requires time and temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

Potentially hazardous food: Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; growth and toxin production of Clostridium botulinum; or, in raw shell eggs, the growth of Salmonella enteritidis. Potentially hazardous food includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support the growth of infectious or toxigenic microorganisms. The term does not include foods that:

1. Have a pH level of 4.6 or below; or
2. Have a water activity (a_w) value of 0.85; or
3. Are a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.

   Also, "potentially hazardous food" shall mean food that is potentially hazardous according to the state department of public health's administrative rules issued under the Illinois Food Handling Regulations Enforcement Act. Potentially hazardous food (PHF) in general means a food that requires time and temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

Pre-hearing conference: An informal conference between the authorized representative of the Health Department and the party affected by a notice pursuant of this chapter, conducted by the health officer or authorized representative.

Pre-packaged: Bottled, canned, cartoned, or securely wrapped. The term "pre-packaged" does not include a wrapper, carry-out box, or other non-durable container used to contain food for the purpose of facilitating food protection during service and receipt of the food by the consumer.

Property owner: The person in whose name legal title to the real estate is recorded including beneficiaries and/or trustees of a land trust.

Pushcart: A cart that is limited to precooked hot dogs, unshucked corn, whole fresh fruit, canned beverages, condiments, and prepackaged nonpotentially hazardous food and which does not have permanent potable water, wastewater, or electric connections. All pushcarts shall be required to return daily to a commissary for supplies, cleaning and for all servicing operations.

Ready-to-eat food: Food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

1. Unpackaged potentially hazardous food that is cooked to the temperature and time required for specific food under Section 750.180 of the Illinois Department of Public Health Food Service Sanitation Code;
2. Washed and cut raw fruit and vegetables;
3. Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excluding whole raw fruits and vegetables offered for retail sale; and
4. Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

Relative risk: The ratio of the chance of a disease developing among members of a population exposed to a factor compared with a similar population not exposed to the factor.
Retail food store: Any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines.

Revocation: To permanently remove a permit to operate a food service establishment or temporary food establishment.

Rodents: Rats and mice.

Rubbish: Combustible and noncombustible waste material except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, cans, metals, mineral matter, glass, crockery, and dust from similar materials.

Seasonal/mobile food service: Food service establishments that are mobile trucks, seasonal operations, and/or provides food at multiple temporary events per year within the County.

Shared Kitchen: a commercial kitchen facility where multiple food businesses or individuals can rent space and equipment to prepare food.

Suspension: To temporarily remove a permit to operate a food service establishment or temporary food service.

Temporary food service: A food service that operates at a fixed location for a period of time not to exceed 14 consecutive days in conjunction with a single event or celebration.

Tenant: A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit. 5

Vending machine: Any self-service device which upon insertion of a coin, coins or tokens or by other similar means, dispenses unit servings of food either in bulk or in packages without the necessity of replenishing the device between each vending operation.

Vermin: Roaches, bedbugs, fleas, lice, termites or similar pest like insects.

Other definitions as stated in rules and regulations that are referenced in this chapter shall apply.

(Ord. No. 2014-11, 10-15-2014; Ord. No. 2015-07, § 2, 8-19-2015)

Sec. 38-A-4 Jurisdiction

The provisions of this article shall apply within the geographical boundaries of the County except in cities, villages and incorporated towns that provide and enforce rules and regulations which are at least as stringent as this Code. The Health Department shall have jurisdiction for the purpose of enforcement of this chapter as referenced in 55 ILCS 5/5-25008.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-5 Compliance

All food, foodstuffs, drink and other material intended for human consumption served or offered by food establishments, whether on or off the premises where served or prepared, all premises in which such food service establishments shall comply with the provisions of this Code unless specifically exempted in this article.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-6 Right of Inspection

The health officer or authorized representative, after proper identification, shall be permitted to enter, during normal business hours, any food establishment or temporary food service in the County for the purpose of making inspections, and to determine compliance with this article. The health officer or authorized representative shall be permitted to examine the records of the food establishment or temporary food service to obtain pertinent information pertaining to food and supplies purchased, received or used, and persons employed. Failure to permit access after proper identification shall be grounds for immediate suspension or revocation of the permit. After such suspension or revocation, the permit holder may submit, in writing, a request for reinstatement of the permit.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-7 Enforcement

A. The health officer or authorized representative may issue a complaint against the owners and occupant of said property or the person responsible for causing the violation charging a violation of any section or subsection of this chapter.

B. The health officer or authorized representative upon observing any violation of this chapter may issue a notice of violation directed to the recorder of deeds of the County, or to the occupant of said property, or both, which said notice shall describe the violation and shall establish a reasonable time limit for the abatement thereof by such owner or occupant, which time shall not be less than ten business days after service of such notice. An authorized representative shall serve the notice herein provided for upon the owner, occupant, tenant or agent of the property where such violation exists, or upon both of them, and shall make upon his or her return a copy of such notice, showing the time of service the person upon whom it was served, or the manner in which it was served.

    1. Immediately upon the termination of the time allowed in any such notice for the abatement of such violation, a health officer or authorized representative shall investigate to determine whether or not such violation has been abated.

    2. In the event the owner or occupant of the property upon which such violation exists has failed within the prescribed time to abate such violation, then the health officer or authorized representative shall file a complaint pursuant to the processes and methods prescribed by Chapter 42, Article III of the DeKalb County Code entitled "Code Hearing Unit."

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-8 Penalty

A. Any person who violates any provisions of this chapter shall upon conviction, be punished by a fine of not less than $100.00 nor more than $500.00, and each day's failure to comply with any such provision shall constitute a separate offense.

B. Revocation of a permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced. The levy and/or payment of any penalty or fine provided in this article shall not be deemed a waiver of the authority of the health officer or authorized representative to suspend, revoke or refuse to renew any license or permit for cause.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-9 Severability

All provisions, paragraphs, sections, divisions, subdivisions and any portions thereof of this chapter are separate and distinct. If any one or more provisions, paragraphs, sections, divisions, subdivisions or portions thereof, are found to be void, invalid or otherwise unenforceable, the validity of the remaining provisions, paragraphs, sections, divisions, subdivisions or portions that can be given effect without such void provisions shall not be affected.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-A-10 Cottage Food Registration

A cottage food operation must register with the local health department for the unit of local government in which it is located, but may sell products outside of the unit of local government where the cottage food operation is located. A copy of the certificate of registration must be available upon request by any local health department. *(410 ILCS 625/4, as amended)*

Sec. 38-A-11 Cottage Food Inspections

Upon receipt of a complaint involving products produced in a cottage food operation or upon the outbreak of a disease that may be connected to a cottage food operation, the County Health Department shall have authority to inspect the cottage food operation involved. Should there be a lack of consent to conduct the inspection, the County Health Department director or designee shall obtain an administrative search warrant to inspect a cottage food. The County Health Department shall set and assess a reasonable fee for inspections conducted pursuant to this section.

(Ord. No. 2015-07, § 2, 8-19-2015)

Sec. 38-A-12 Cessation of Operations of Cottage Food

In the event of a disease outbreak reasonably connected to a cottage food operation, the Health Department director or designee shall request the cottage food operation to cease food sales to the public until the Health Department has determined that operations may continue. In the absence of voluntary compliance, the Health Department director or designee may seek a court order for cessation of a cottage food operation.

(Ord. No. 2015-07, § 2, 8-19-2015)

Sec. 38-B PERMITS

Sec. 38-B-1 Required

It shall be unlawful for any person to operate a food establishment or temporary food establishment within the County who does not possess a valid permit issued to him by the health officer or authorized representative. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a permit.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-2 Application/Issuance

Any person desiring to operate a food establishment or temporary food service, or person desiring to renew an expired permit shall make written application for a permit on forms provided by the health officer or authorized representative. Food establishments shall provide a fax number/machine that is available 24 hours per day, and/or an e-mail account to receive emergent food safety information related to but not inclusive of food recalls. Such application shall include: the applicant's full name, post office address, and whether such applicant is an individual, firm, corporation or partnership; the names and type of proposed food establishment; and the signature of the applicant or applicants. The information provided on the application shall be kept current at all times. If the application is for a temporary food service establishment, it shall also include the inclusive dates of the proposed operation. Upon receipt of such an application for a new establishment, the health officer or authorized representative shall make an inspection of the food establishment to determine compliance with the provisions of this article. When inspection reveals that the applicable requirements of this article have been met, a permit shall be issued to the applicant by the health officer or authorized representative. The Health Department has the final determination of the establishment category.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-3 Renewal

Upon receipt of an application to renew an annual permit, the health officer or authorized representative shall review the food establishment record to determine compliance with the provisions of this article. Whenever the review process for renewal of permit reveals serious repeat violations of this article the permit will not be issued and the health officer or authorized representative shall notify the applicant immediately thereof. Such notice shall state the reasons for not renewing the permit. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant, if requested, at a time and place designated by the health officer or authorized representative. Such hearing shall be scheduled as soon as possible, but no later than five business days from the date of notice. The notice referred to in this subsection shall be delivered to the applicant in person by the health officer or authorized representative or may be sent by certified mail, return receipt requested. A permit which has expired shall be removed from the food establishment by the health officer or authorized representative.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-4 Expiration

All initial and renewal permits, regardless of the date of issuance, shall expire on January 31 of each year, unless sooner suspended or revoked. Temporary permits shall be valid for the period of time that is in conjunction with a special event or celebration, but shall not exceed 14 consecutive days.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-5 Transfer

Permits shall not be transferable from one person to another person nor shall said permit be applicable to any locations, buildings, or places other than that for which it is issued. Each facility shall have a valid permit.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-6 Display

A valid permit shall be posted in every food establishment so as to be clearly visible to all customers. A valid permit is one that is not suspended, revoked or expired.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-7 Fees

A. *Permit fees.* Permit fees as required under this article shall be set by the board of health and approved by the County Board. A fee schedule shall be maintained in the office of the County clerk and the County Health Department. The fee schedule shall be available for review and copying by the public. Permit fees shall be set according to both the risk category (see "establishment categories" definition, section 38-51) and class of the food establishment. The permit year will be determined by the Health Department.

1. Class A facilities would include risk category I multi-department retail grocery stores which may include delicatessen, bakery, meat/seafood, produce and food service.
2. Class B facilities would include all other risk category I facilities.
3. Class C facilities would include all risk category II facilities.
4. Class D facilities would include all risk category III facilities.
5. Class E facilities include all temporary food service facilities that operate at a fixed location for a period of time not to exceed 14 consecutive days in conjunction with a single event or celebration.

Note: Due to establishment operations and relative risk, establishment types (class and risk categories) are at the discretion of the Health Department, and are subject to change.

B. *Pro-ration of fees.* Permit fees will be nonrefundable. To obtain a valid permit, a new owner must apply and complete the permit application process. Establishments opening or changing ownership within the first six months of the permit year will pay 100 percent of the appropriate annual fee. Establishments opening or changing ownership after the first six months of the permit year will pay 50 percent of the annual fee for the remainder of the permit year.

C. *Late payment penalty.* All permit fees for the annual renewal of permits are due by the last day of the permit year. Failure to submit the total fee required by the last day of the permit year will result in expiration of the permit and cessation of food establishment operations due to lack of a valid permit. Establishments failing to submit the required fee by the last day of the permit year shall be assessed a late payment penalty fee of 50 percent of the required fee in addition to the appropriate permit fee. If the last day of the permit year is on a Saturday or Sunday, then the fee will be due the next Monday.

There will be a late fee according to the current fee schedule for any temporary event application not received prior to seven days before an event or celebration.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-8 Suspension

A. *Failure to comply with article.* Permits may be suspended by the health officer or authorized representative for failure of the permit holder to comply with the requirements of this article. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this article, the permit holder or operator shall be notified, in writing, that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the health officer or authorized representative by the permit holder within five days from receipt of the notice. Upon suspension of the permit, the permit shall be removed from the food establishment by the health officer or authorized representative. Notwithstanding the other provisions of this article, whenever the health officer or authorized representative finds unsanitary or other conditions in the operation of a food establishment which in his judgment constitute a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the permit holder or operator, citing such conditions, specifying the corrective action to be taken and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the permit is immediately suspended, and all operations as a food establishment are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the health officer or authorized representative, shall be afforded a hearing as soon as possible but no later than five business days of written request.

B. *Cessation of operations.* Permits for all food establishments shall be automatically suspended should the holder or operator cease operation of the food establishment for 30 consecutive days or longer, irrespective of whether such cessation of operations shall be due to the seasonal nature of such food establishments, or any other reason. Said permit shall be reinstated upon application to the health officer or authorized representative for reinspection of the food establishment if the establishment is in compliance with the applicable requirements of this article.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-9 Revocation, Fine and Injunction

A. For serious or repeated violations of any of the requirements of this article, or for interference with the health officer or authorized representative in the performance of his duties, a permit may be revoked after an opportunity for a hearing has been provided by the health officer or authorized representative. Prior to such action, the health officer or authorized representative shall notify a permit holder, in writing, stating the reasons for which the permit is subject to revocation, and advising that the permit shall be permanently revoked at the end of five days following service of such notice unless a request for a hearing is filed with the health officer or authorized representative by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

B. In addition to fine or other remedy, the health officer may seek injunction against any permit holder, person or operation violating this Code as provided in 410 ILCS 625/1.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-10 Hearings

The hearing conferences provided for in this article shall be conducted by the health officer or authorized representative at a time and place designated by the health officer or authorized representative. The department and the permit holder shall be entitled to call witnesses, be represented by legal counsel, and a record shall be made of the proceedings. The health officer or authorized representative shall make a final finding based upon the complete information presented and shall sustain, modify or rescind any notice or order considered at the prehearing conference. A written decision shall be furnished to the holder of the permit by the health officer or authorized representative and said decision shall be final.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-11 Outside Jurisdiction

Food from establishments outside the jurisdiction of the County may be sold in the County if such food establishments conform to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the health officer or authorized representative may accept reports from responsible authorities and other jurisdictions where such food establishments are located.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-12 Notices

A. *Issuance.* Whenever a health officer or authorized representative makes an inspection and discovers that any of the requirements of this article have been violated, he may notify the permit holder or operator of such violations by means of an inspection report form or other written notice. In such written notice, the health officer or authorized representative shall:

1. Set forth the specific violations found;
2. Establish a specific and reasonable period of time for the correction of the violations found in accordance with the enforcement procedure;
3. State that failure to comply with any notice issued in accordance with the provisions of this article may result in immediate suspension of the permit, and/or the possibility of further legal action;
4. State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a prehearing conference is filed with the health officer or authorized representative within the period of time established in the notice of correction.

B. *Service.* Notices provided for under this section shall be deemed properly served when a copy of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, e-mailed, or such notice has been sent by certified mail, return receipt requested, to the last known address of the permit holder. Copy of such notice shall be filed with the records of the health officer or authorized representative.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-B-13 Exemptions

Roadside stands operated for the sale of unprocessed agricultural products produced and offered for sale shall be exempt from the provisions of this article.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-C PLAN REVIEW, INSPECTION, AND FOOD EXAMINATION

Sec. 38-C-1 Plan Review

Whenever a food establishment is hereafter constructed or remodeled or whenever an existing structure is converted to use as a food establishment, an application for permit is required, including two sets of properly prepared plans and specifications for such construction, remodeling or conversion which shall be submitted to the health officer or authorized representative for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas; and the type and model of proposed fixed equipment and facilities. The health officer or authorized agent shall approve the plans and specifications if they meet the requirements of this article. No food establishment shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the health officer or authorized representative. Construction, remodeling and/or conversion activities shall not begin until the plans and specifications have been approved by the health officer or authorized representative.

When the health officer or authorized representative issues an approval letter, the construction documents shall be approved, by stamp, as "Reviewed for Code Compliance." One set of the construction documents so reviewed shall be retained by the Health Department. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the health officer or authorized representative.

Whenever plans and specifications are required by this section to be submitted to the health officer or authorized representative, the health officer or authorized representative shall inspect the food establishment prior to the beginning or resumption of operations, to determine compliance with the approved plans and specifications and with the requirements of this article.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-C-2 Inspections

A. *Frequency.* The health officer or authorized representative shall conduct routine inspections of each food establishment within the County as follows or as required by local health protection grant rules if more restrictive:

Class A	Two to Three times annually
Class B	Two to Three times annually
Class C	One to two times annually
Class D	One time annually

The following activities may be used in place of one annual inspection of a category 1/class A and B facility:

1. A certified food service manager is present at the facility at all times food is being prepared;
2. A hazard analysis critical control point (HACCP) inspection/menu review;

3. Facility employees attend an in-service training or educational conference on food sanitation. The health officer or authorized representative shall make as many additional inspections and reinspections as are necessary for the enforcement of this article.

B. *Consent to inspection.* The receipt of any permit or license issued by the Health Department pursuant to this chapter to any person, firm, or corporation shall constitute the agreement of such person, firm, or corporation to such investigations or inspections.

C. *Reports.* Whenever an inspection of a food establishment or temporary food service is made, the findings shall be recorded on an inspection report. One copy of the inspection report form shall be mailed and emailed to the person in charge of the food establishment or temporary food service.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-C-3 Correction of Violations

A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found. The correction of the violations shall be accomplished within the period specified in accordance with the "DeKalb County Health Department Food Sanitation Enforcement Procedure." The inspection report shall state that failure to comply with any time limits for corrections may result in immediate suspension of all food service operations. An opportunity for a prehearing conference on the inspection findings or the time limitation or both will be provided if a written request is filed with the [Health Department] within five days following suspension of operations. If a request for a prehearing conference is received, the prehearing conference shall be held within 30 days of receipt of the request.

B. When more than one follow-up inspection of a food service facility is necessary to ensure compliance with a previous inspection, a fee will be assessed pursuant to the current fee schedule.

C. Whenever a food establishment or temporary food service is required under provisions of subsection A. of this section to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time period during normal working hours.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-C-4 Examination and Condemnation

A. Food may be examined or sampled by the health officer or authorized representative as may be necessary to determine freedom from adulteration or misbranding. The health officer or authorized representative may, upon written notice to the owner or person in charge, embargo any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Under an embargo, food shall be permitted to be suitably stored. It shall be unlawful for any person to move or alter an embargo notice or tag placed on food by the health officer or authorized representative. Neither such food nor the containers therefore shall be relabeled, repackaged or reprocessed, altered, disposed of or destroyed without permission of the health officer or authorized representative, except on an order by a court of competent jurisdiction.

B. After the owner or person in charge has had a prehearing conference as provided in section 38-75 of this chapter, and on the basis of evidence produced at such prehearing conference, or on the basis of an examination in the event a written request for a prehearing conference is not received within ten days, the health officer or authorized representative may vacate the embargo or may, by written order direct the owner or person in charge of food which was placed under the embargo, to denature or destroy such food or bring it into compliance with the provisions of this article.

C. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsuitable for use, or unsanitary, such equipment shall be taken out of use and an embargo placed on said items by the health officer or authorized representative. Such equipment may not be put back into service until written permission is obtained from the health officer or authorized representative. It shall be unlawful for any person to move or alter an embargo, notice or tag placed on equipment by the health officer or authorized representative. Such equipment will not be altered, disposed of or destroyed without permission of the health officer or authorized representative except on an order by a court of competent jurisdiction.

D. After the owner or person in charge has had a prehearing conference as provided in section 38-75 of this chapter, and on the basis of the evidence produced at such prehearing conference, or on the basis of an examination in the event a written request for a hearing is not received within ten days, the health officer or authorized representative may vacate the embargo or may by written notice direct the owner or person in charge of the equipment to bring it into compliance with the provisions of this article. Such orders shall be stayed if the order is appealed to a court of competent jurisdiction within three days.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-D DISEASE TRANSMISSION

Sec. 38-D-1 Procedure

When the health officer or authorized representative has reasonable cause to suspect the possibility of disease transmission by any food establishment or temporary food service employee, he shall make such investigation as may be indicated, including the morbidity history of suspected employees and take appropriate action. The health officer or authorized representative may require any or all of the following measures:

1. The immediate exclusion of the employee from all food establishments or temporary food services.
2. The immediate closing of the food establishment or temporary food service concerned until, in the opinion of the health officer, no further danger of disease outbreak exists.
3. Restriction of the employee's services to any area of the establishment where there would be no danger of transmitting disease.
4. Adequate medical and laboratory examinations of the employee, or other employees, and of his and their body discharges.
5. A condemnation order and possible resultant destruction of any suspect food or food products.

(Ord. No. 2014-11, 10-15-2014)

Sec. 38-D-2 Employee Requirements

A. *Food service worker's duty.*

1. To report to the food service manager and/or person in charge: The onset of any of the following symptoms, either while at work or outside of work, including the date of onset:

    a. Diarrhea, vomiting, jaundice, sore throat with fever, infected cuts or wounds, or lesions containing pus on the hand, wrist, an exposed body part, or other body part and the cuts, wounds, or lesions are not properly covered (such as boils and infected wounds, however small), and/or any other illness.

2. Medical diagnosis: Whenever diagnosed with a disease in a communicable form or diagnosed as a carrier of organisms that cause such disease

B. *Food service manager and/or person in charge duty.* The food service manager and/or person in charge shall ensure that:

1. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas.
2. Employees and other persons such as delivery, maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this article.
3. Employees are effectively cleaning their hands, by routinely monitoring their handwashing.
4. Employees are visibly observing foods as they are received to determine that they are, delivered at the required temperatures, protected from contamination, and unadulterated.
5. Employees are properly cooking potentially hazardous food known to cause severe foodborne illness.
6. Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours.
7. Consumers who order raw or partially cooked ready-to-eat-foods of animal origin are informed that the food is not cooked sufficiently to ensure its safety.
8. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused.
9. Consumers are informed by posting a notice that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.
10. Employees are preventing cross-contamination of ready-to-eat-food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.
11. Employees are properly trained in food safety as it relates to their assigned duties.
12. Food employees are informed of their responsibility to report in accordance with this article, to the food service manager, information about their health and activities as they relate to diseases that are transmissible through food.

(Ord. No. 2014-11, 10-15-2014)